

standing rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin G. Hatch, Robert F. Bennett, James M. Inhofe, John Ensign, Sam Brownback, Michael B. Enzi, Wayne Allard, Michael D. Crapo, Susan M. Collins, Pete V. Domenici, Conrad R. Burns, Kay Bailey Hutchison, John E. Sununu, Norm Coleman, Charles E. Grassley.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum as provided for under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. For the information of all Senators, this cloture motion, which will be the third vote in relation to the Estrada nomination, will occur on Tuesday. I regret that it has been necessary for me to file this motion once again. With Tuesday's vote, the Senate will have matched the most cloture votes relative to executive nominations. That is certainly not a record or milestone I think this Senate should be proud of achieving.

#### LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—BUDGET RESOLUTION

Mr. FRIST. Mr. President, I ask unanimous consent that at 2 p.m., on Monday, March 17, the Senate proceed to the consideration of the first concurrent budget resolution, if it has been properly reported by that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. FRIST. Mr. President, for the information of all Senators, there will be no further votes during today's session.

We have had a productive, full week. I thank the managers on both sides of the aisle for today's work and the previous days' work.

Earlier today, by a vote of 64 to 33, the Senate passed S. 3, the partial-birth abortion ban bill. I thank all Members on both sides of the aisle for their debate and their courtesies throughout the consideration of that bill.

In addition, this week, we have been able to confirm five district judges and one circuit judge. Unfortunately, we were unable to reach a conclusion with respect to the Estrada nomination and, therefore, we will have the cloture vote, once again, on Tuesday.

Next week, the Senate will proceed to the budget resolution. The Budget Act provides for 50 hours of consider-

ation and, therefore, all Members should expect late sessions next week. Although we will begin the budget resolution on Monday, no votes will occur that day. Therefore, the next vote, on cloture, will occur Tuesday morning.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, just a unanimous consent request: Senator LEAHY wishes to speak for 20 minutes, and Senator KENNEDY for 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, what was the previous unanimous consent agreement of the time for the Senator from Vermont?

The PRESIDING OFFICER. The previous order had Senator KENNEDY receiving 30 minutes.

Mr. LEAHY. But prior to the votes, wasn't there—

The PRESIDING OFFICER. The Senator from Vermont already had 20 minutes.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Does the distinguished majority leader have other matters?

Mr. FRIST. No.

#### THE COUNTDOWN TO WAR

Mr. LEAHY. Mr. President, last Thursday, at his press conference, the President of the United States gave his reasons to justify the use of military force to remove Saddam Hussein from power.

The President said again that he has not made up his mind to go to war, but his own advisers are saying that even if Iraq fully complies with U.N. Security Council Resolution 1441, Saddam Hussein must be removed from power.

The President said his goal is protecting the American people from terrorism. That is a goal we all share. But he offered no evidence that Iraq had anything to do with the September 11 attacks or any details of Iraq's links to al-Qaida.

He offered no new information about the potential costs of a war, either in American and Iraqi lives, or in dollars. Both Republicans and Democrats have urged the President to be more forthcoming with the American people, to tell us what sacrifices may be involved—not to have Cabinet members come to the Senate and the House, and when asked how much they estimate a war and its aftermath may cost, say: We have no idea.

We know the administration has estimated the costs, yet the President dismissively says "ask the spenders" in

Congress, knowing full well that Congress appropriates funds, it is the President who spends them.

It is disingenuous, at best, to refuse to level with the American people at a time of rapidly escalating deficits. We know it has already cost billions of dollars just to send our troops over there, but how many more tens or hundreds of billions of dollars, may be added to the deficit? The President is apparently ready to send hundreds of thousands of America's sons and daughters into battle without saying anything about the costs and risks.

The President repeatedly spoke of the danger of "doing nothing," as if doing nothing is what those who urge patience and caution—with war only as a last resort—are recommending. In fact, virtually no one is saying we should do nothing about Saddam Hussein.

Even most of the millions of people who have joined protests and demonstrations against the use of force without U.N. Security Council authorization are not saying the world should ignore Saddam Hussein.

Yet that is the President's answer to those who oppose a preemptive U.S. invasion, and who, contrary to wanting to do nothing, want to give the United Nations more time to try to solve this crisis without war.

The President also failed to address a key concern that divides Americans, that divides us from many of our closest European allies, that divides our allies from each other, and that divides the U.N. Security Council. That issue is not whether or not Saddam Hussein is a deceptive, despicable, dangerous despot who should be disarmed. There is little, if any, disagreement about that.

Nor is it whether or not force should ever be used. Most people accept that the United States, like any country, has a right of self-defense if it is faced with an imminent threat. If the U.N. inspectors fail to disarm Iraq, force may become the only option.

Most people also agree that a United States-led invasion would quickly overwhelm and defeat Iraq's ill-equipped, demoralized army.

Rather, the President said almost nothing about the concern shared by so many people, that by attacking Iraq to enforce Security Council Resolution 1441 without the support of key allies on the U.N. Security Council, we risk weakening the Security Council's future effectiveness and our own ability to rally international support not only to prevent this war and future wars, but to deal with other global threats like terrorism. This concern is exacerbated by the increasing resentment throughout the world of the administration's domineering and simplistic "you are either with us or against us" approach. It has damaged longstanding relationships, relationships that have taken decades of trust and diplomacy to build, both with our neighbors in this hemisphere and our friends across the Atlantic.

The President says that if the Security Council does not support the use of force today, it risks becoming irrelevant. The President has it backward. The Security Council would not become irrelevant because it refuses to obey the President of the United States. Rather, the Security Council's effectiveness is threatened if the United States ignores the will of key allies on the Security Council regarding the enforcement of a Security Council resolution.

The President was also asked by several members of the press why there is such fervent opposition to his policy among Americans and some of our oldest allies when only a year and a half ago, after the September 11 attacks, the whole world was united in sympathy with the United States. He had no answer.

The President should heed the words of former National Security Adviser Brent Scowcroft, who was an architect of the 1991 Gulf War. General Scowcroft has strongly criticized the administration's ad hoc approach based on a "coalition of the willing" which the general calls "fundamentally, fatally flawed." General Scowcroft said:

As we've seen in the debate about Iraq, it's already given us an image of arrogance and unilateralism, and we're paying a high price for that image. If we get to the point where everyone secretly hopes the United States gets a black eye because we're so obnoxious, then we'll be totally hamstrung in the war on terror. We'll be like Gulliver with the Lilliputians.

For 200 years, people around the world have looked up to the United States because of our values, our integrity, our tolerance, and our respect for others. These are the qualities that have set the United States apart. Today, while most countries share our goal of disarming Saddam Hussein, we are being vilified for our arrogance, for our disdain for international law, and our intolerance of opposing views.

A distinguished American career diplomat, John Brady Kiesling, echoed General Scowcroft's concerns about the practical harm done to U.S. interests and influence abroad. He recently wrote to Secretary of State Colin Powell, proffering his resignation as an act of protest about the administration's policy toward Iraq. I suspect Mr. Kiesling's eloquent and heartfelt explanation of how he reached the difficult decision to give up his career expresses the feelings and concerns of some other American diplomats who are representing the United States at our embassies and missions around the world.

I ask unanimous consent that Mr. Kiesling's letter to the Secretary be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. While I was disappointed by President Bush's remarks last week, the Bush administration and the Pakistani Government should be commended for the capture of Khalid

Shaikh Mohammed, one of al-Qaida's top leaders who was reportedly the mastermind of the September 11 attacks. Whether others within al-Qaida will quickly fill Mr. Mohammed's shoes remains to be seen, but the fact that the U.S. Government and other governments are methodically tracking these people down sends an important message and should give some comfort to the American people. This is encouraging. Let's hope we can soon celebrate the capture of Osama bin Laden, because capturing the leaders of al-Qaida should be our highest priority.

But the world is increasingly apprehensive as the United States appears to be marching inexorably towards war with Iraq. Today, there are more than 250,000 American men and women in uniform in the Persian Gulf preparing for the order to attack. We hear that the decision must be made within a matter of days because it is too costly to keep so many troops deployed overseas. In other words, now that we have spent billions of dollars to ship all those soldiers over there, we need to use them because we cannot back down now, as I have heard some people say. Frankly, this is one of the worst reasons possible to rush into war.

We should not back down. Saddam Hussein must be disarmed. Doing nothing—I agree with the President about this—would mean the United Nations is unwilling to enforce its own resolutions concerning perhaps the most serious threat the world faces today, the proliferation of weapons of mass destruction. That would be unacceptable. The U.N. Security Council ordered Iraq to fully disclose its weapons of mass destruction. Iraq has not yet done so.

I agree with those who say the only reason Saddam Hussein is even grudgingly cooperating with the U.N. inspectors is the buildup of U.S. troops on Iraq's border. I have commended the President for refocusing the world's attention on Saddam Hussein's failure to disarm. I also recognize the time may come when the use of force to enforce the U.N. Security Council resolution is the only option. But are proposals to give the U.N. inspectors more time unreasonable, when it could solidify support for the use of force if that becomes the only option?

Despite the President's assertion that Iraq poses an imminent threat to the United States, that assertion begs credulity when the U.N. inspectors are making some progress and a quarter of a million American soldiers are poised on Iraq's border. Absent a credible, imminent threat, a decision to enforce Resolution 1441 should only be made by the Security Council—not by the United States or any other government alone.

The President says war is a last resort. If he feels that way, why do he and his advisors want so desperately to short-circuit the inspection process?

Why is he so anxious to spend billions of dollars to buy the cooperation of other countries, other countries that do not yet believe war is necessary?

Why is he so unconcerned about the predictably hostile reaction in the Muslim world to the occupation of Iraq, perhaps for years, by the United States military?

Why is the President so determined to run roughshod over our traditional alliances and partnerships which have served us well and whose support we need both today and in the future?

I cannot pretend to understand the thinking of those in the administration who for months or even longer have seemed possessed with a kind of messianic zeal in favor of war. A preemptive, U.S. attack against Iraq without a declaration of war by Congress or the U.N. Security Council's support may be easy to win, but it could violate international law and cause lasting damage to our alliances and to our ability to obtain the cooperation of other nations in meeting so many other global challenges.

Just recently, Homeland Security Secretary Tom Ridge warned that a war with Iraq could bring more threats and more terrorist attacks within the United States. The CIA Director has testified that Saddam Hussein is more likely to use chemical or biological weapons if he is attacked. Yet we are marching ahead as though these warnings don't matter.

I have said before, this war is not inevitable. I still believe it can be avoided. But I fear that the President, despite opposition among the American people, in the U.N., and around the world, is no longer listening to anyone except those within his inner circle who are eager to fight.

The President says we must overthrow Saddam Hussein to protect the American people. Saddam Hussein is a threat, but North Korea, on the verge of acquiring half a dozen nuclear weapons, poses a far more serious and immediate threat to the United States and the world. Yet the administration is too preoccupied with Saddam Hussein to be distracted by North Korea, even though North Korea has shown no qualms about selling ballistic missiles and anything else that will earn them money. It makes no sense.

I hope the Iraqi government comes to its senses. I hope we do not walk away from the U.N. I hope we don't decide that just because our troops are there, we cannot afford to wait.

#### EXHIBIT 1

FEBRUARY 27, 2003.

DEAR MR. SECRETARY: I am writing you to submit my resignation from the Foreign Service of the United States and from my position as Political Counselor in U.S. Embassy Athens, effective March 7. I do so with a heavy heart.

The baggage of my upbringing included a felt obligation to give something back to my country. Service as a U.S. diplomat was a dream job. I was paid to understand foreign languages and cultures, to seek out diplomats, politicians, scholars and journalists, and to persuade them that U.S. interests and theirs fundamentally coincided. My faith in my country and its values was the most powerful weapon in my diplomatic arsenal.

It is inevitable that during twenty years with the State Department I would become

more sophisticated and cynical about the narrow and selfish bureaucratic motives that sometimes shaped our policies. Human nature is what it is, and I was rewarded and promoted for understanding human nature. But until this Administration it had been possible to believe that by upholding the policies of my president I was also upholding the interests of the American people and the world. I believe it no longer.

The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's most potent weapon of both offense and defense since the days of Woodrow Wilson. We have begun to dismantle the largest and most effective web of international relationships the world has ever known. Our current course will bring instability and danger, not security.

The sacrifice of global interests to domestic politics and to bureaucratic self-interest is nothing new, and it is certainly not a uniquely American problem. Still, we have not seen such systematic distortion of intelligence, such systematic manipulation of American opinion, since the war in Vietnam. The September 11 tragedy left us stronger than before, rallying around us a vast international coalition to cooperate for the first time in a systematic way against the threat of terrorism. But rather than take credit for those successes and build on them, this Administration has chosen to make terrorism a domestic political tool, enlisting a scattered and largely defeated Al Qaeda as its bureaucratic ally. We spread disproportionate terror and confusion in the public mind, arbitrarily linking the unrelated problems of terrorism and Iraq. The result, and perhaps the motive, is to justify a vast misallocation of shrinking public wealth to the military and to weaken the safeguards that protect American citizens from the heavy hand of government. September 11 did not do as much damage to the fabric of American society as we seem determined to do to ourselves. Is the Russia of the late Romanovs really our model, a selfish, superstitious empire thrashing toward self-destruction in the name of a doomed status quo?

We should ask ourselves why we have failed to persuade more of the world that a war with Iraq is necessary. We have over the past two years done too much to asset to our world partners that narrow and mercenary U.S. interests override the cherished values of our partners. Even where our aims were not in question, our consistency is at issue. The model of Afghanistan is little comfort to allies wondering on what basis we plan to rebuild the Middle East, and in whose image and interests. Have we indeed become blind, as Russia is blind in Chechnya, as Israel is blind in the Occupied Territories, to our own advice, that overwhelming military power is not the answer to terrorism? After the shambles of post-war Iraq joins the shambles in Grozny and Ramallah, it will be a brave foreigner who forms ranks with Micronesia to follow where we lead.

We have a coalition still, a good one. The loyalty of many of our friends is impressive, a tribute to American moral capital built up over a century. But our closest allies are persuaded less that war is justified than that it would be perilous to allow the U.S. to drift into complete solipsism. Loyalty should be reciprocal. Why does our President condone the swaggering and contemptuous approach to our friends and allies this Administration is fostering, including among its most senior officials. Has *oderint dum metuant* [Ed. note: Latin for "Let them hate so long as they fear," thought to be a favorite saying of Caligula] really become our motto?

I urge you to listen to America's friends around the world. Even here in Greece, purported hotbed of European anti-Americanism, we have more and closer friends than the American newspaper reader can possibly imagine. Even when they complain about American arrogance, Greeks know that the world is a difficult and dangerous place, and they want a strong international system, with the U.S. and EU in close partnership. When our friends are afraid of us rather than for us, it is time to worry. And now they are afraid. Who will tell them convincingly that the United States is as it was, a beacon of liberty, security and justice for the planet?

Mr. Secretary, I have enormous respect for your character and ability. You have preserved more international credibility for us than our policy deserves, and salvaged something positive from the excesses of an ideological and self-serving Administration. But your loyalty to the President goes too far. We are straining beyond its limits an international system we built with such toil and treasure, a web of laws, treaties, organizations and shared values that sets limits on our foes far more effectively than it ever constrained America's ability to defend its interests.

I am resigning because I have tried and failed to reconcile my conscience with my ability to represent the current U.S. Administration. I have confidence that our democratic process if ultimately self-correcting, and hope that in a small way I can contribute from outside to shaping policies that better serve the security and prosperity of the American people and the world we share.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

#### AMERICAN VALUES AND WAR WITH IRAQ

Mr. KENNEDY. Madam President, the true greatness of America lies in the values we share as a nation.

From America's beginning, we shared a passionate concern for the rights and the well-being of each individual—a concern stated eloquently in our founding documents, the Declaration of Independence, the Constitution and the Bill of Rights.

From our immigrant roots, we learned not only to tolerate others whose appearance, religion, and culture are different from our own, but to respect and welcome them, and to recognize our diversity as a source of great strength.

From our religious faith and our sense of community, we gained an understanding of the importance of fairness and compassion for the less fortunate.

In the same way that parents try to build a better life for their children, each generation of Americans has tried to leave a more just society to the next. We all know that our history in-

cludes periods when grave injustices were tolerated. Those dark periods in our national history teach us lessons we must never forget. But we have battled fiercely to overcome injustice, and we are a better nation for our willingness to fight those battles.

Our most deeply held national values are rooted in our pursuit of justice for all. It urges us to ensure fair treatment for each person, to extend help to those in need, and to create opportunity for each individual to advance. Those are among the most important yardsticks by which we measure our success in building "a more perfect union."

Now as we consider the prospect of war with Iraq, many of us have serious questions about whether current national policy reflects America's values.

We owe it to the brave men and women of our armed forces to ensure that we are embarked on a just war—that the sacrifice we ask of them is for a cause that reflects America's basic values.

Our men and women in uniform are working and training hard for the serious challenges before them. They are living in the desert, enduring harsh conditions, and contemplating the horrors of the approaching war.

Their families left behind are sacrificing, too, each and every day here at home, wondering if their loved ones in uniform will return unharmed. Many—especially the families of our reservists—are struggling to make ends meet as their spouses are called up for months of duty abroad. Wives are separated from husbands. Children are separated from fathers and mother. Businesses and communities are struggling to go forward without valued employees now serving in the gulf.

More than 150,000 National Guard and Reserve soldiers have been mobilized. Of these, 13,000 have been on active duty for at least a year. Others return home from deployments, only to turn around and head back overseas for a new tour of duty. For many of these soldiers, "the expected one weekend a month, two weeks a year" is merely a slogan, and does not reflect their new reality. In fact, today's reservists are spending thirteen times longer on active duty than they did a decade ago.

A recall to active duty brings financial hardship as well. Many give up larger civilian salaries when they go on active duty. The law requires employers to take back reservists after their deployments. But for those who work in small firms or are self-employed, there are no such guarantees unless their firms are still in business.

The families of our men and women in uniform pay a price for this deployment. During the Vietnam War, only 20 percent of all Army military personnel were married. Today over 50 percent of the military are married, which means enormous strain on the families who are left behind to worry and cope with the sudden new demands of running a household alone, never knowing how long their loved ones will be away.